

~~ORIGINAL~~

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1 THE CHANCERY COURT OF JACKSON COUNTY, MISSISSIPPI

2

3 IN RE MIKE MOORE, ATTORNEY
4 GENERAL EX REL, STATE OF CAUSE NO. 94-1429
5 MISSISSIPPI TOBACCO LITIGATION

6

DEPOSITION OF DAVID H. GOFF, Ph.D.

7 Taken at the Offices of McMahan, McMahan
8 & Brinkley, 608 W. Pine Street,
9 Hattiesburg, Mississippi, on Friday,
March 14, 1997, beginning at 9:10 a.m.

10

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37

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1 STIPULATION

2 It is hereby stipulated and agreed by
3 and between the parties hereto, through their
4 respective attorneys of record, that this
5 deposition may be taken at the time and place
6 hereinbefore set forth, by Candace O'Barr
7 Holleman, C.S.R., Court Reporter and Notary
8 Public, pursuant to the Federal Rules of Civil
9 Procedure, the Mississippi Rules of Civil
10 Procedure, as amended;

11 That the formality of READING AND
12 SIGNING is specifically NOT WAIVED;

13 That all objections, except as to the
14 form of the questions and the responsiveness of
15 the answers, are reserved until such time as this
16 deposition, or any part thereof, may be used or
17 is sought to be used in evidence.

18 ---

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(Exhibits 1, 2 and 3 were marked.)

DAVID H. GOFF, Ph.D.

having been first duly sworn, was examined
and testified as follows:

EXAMINATION

BY MS. COLEY;

Q. Dr. Goff, my name is Jennifer Coley, and I'm a lawyer with the Scruggs law firm in Pascagoula on the tobacco case.

10 Have you ever given a deposition
11 before?

A. No.

13 Q. What I'm going to do is just ask you
14 some questions about your expert statement and
15 what you are expected to testify to for the
16 defendants in this case. If you don't understand
17 my question, you can ask me to rephrase it at any
18 time. If you need to take a break, just let us
19 know. We will probably break every 45 minutes to
20 an hour. Okay?

A. Okay.

22 Q. First of all, I had marked as Exhibit
23 1 the Notice of Deposition. I will show you a
24 copy. Have you ever seen that before?

A. Not to hold in my hand and read

1 through..

2 Q. Okay. Were you notified by defense
3 counsel that your deposition had been noticed?

4 A. Yes.

5 Q. Did they advise you that the Notice of
6 Deposition asked for certain documents?

7 A. Yes.

8 Q. Okay. I'm going to go down to the
9 bottom of the first page. Paragraph 1 asks for
10 all documents reviewed by the witness in
11 connection with his work in this case. And I
12 reviewed two copy boxes full of documents. Are
13 those all of the documents you've reviewed?

14 A. Those are the documents that I'm
15 relying on.

16 Q. Okay. That would cover Paragraph 2.
17 Are there any other documents which you think you
18 will rely on or intend to rely on that have not
19 been produced?

20 A. Not to my immediate knowledge, no.

21 Q. The second page would be Paragraph 3,
22 all documents prepared by the witness in
23 connection with his testimony. Are there any
24 documents that you have prepared in connection
25 with your testimony?

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1 A. No.

2 Q. Paragraph 4 would be a copy of any
3 final version of any study prepared by you for
4 this litigation or otherwise. Are there any
5 other of those documents?

6 A. No.

7 Q. Okay. Paragraph 5 is all
8 correspondence with counsel, being defense
9 counsel, including invoices and billing records.
10 And I received about a quarter of an inch,
11 several documents. I take it that is all of
12 those documents?

13 A. Yes.

14 Q. Paragraph 6, all documents that
15 constitute or reflect communications that you
16 have had with other witnesses. Has there been
17 any communication between you and any other
18 witness in this case?

19 A. No.

20 Q. Paragraph 7, all documents the witness
21 received from or sent to defense counsel,
22 including internal company documents. Are there
23 any of those documents in your possession that
24 you intend to rely on?

25 A. No.

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1 Q. . . Okay. That will take care of Exhibit
2 1. Exhibit 2 is a copy of your CV which I
3 received from defense counsel. Dr. Goff, would
4 you give me a brief summary of your education
5 since high school?

6 A. I received my undergraduate degree
7 from the University of Massachusetts in 1970 in
8 the field-- a major of speech with an emphasis in
9 mass communication. I earned my Master of Arts
10 degree from the University of Massachusetts in
11 1972 with a major in communication studies,
12 emphasis in mass communication, and a Ph.D. from
13 the same program in 1975 with the emphasis in
14 mass communication and a minor composed of
15 marketing, public opinion and social psychology,
16 as it states in my vitae.

17 Q. Okay. Dr. Goff, would you give us
18 your business and home address?

19 A. My business address at the University
20 of Southern Mississippi is-- Do you want a
21 mailing address?

22 Q. Yes.

23 A. It would be Box 5141, University of
24 Southern Mississippi, Hattiesburg, Mississippi
25 39406. My home address is [DELETED]

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1 [DELETED]

2 Q. Were you born in Mississippi?

3 A. No.

4 Q. Where were you born?

5 A. Massachusetts.

6 Q. Just out of curiosity. On your CV,
7 you have got an employment history. Did I give
8 you the right one?

9 A. This one starts with Page 2. That
10 information is on Page 1.

11 Q. I will let you look at mine. I have
12 another one.

13 I want to go through your employment
14 history. During grad school, I see you were a
15 teaching assistant at the University of
16 Massachusetts at Amherst?

17 A. Correct.

18 Q. What were your duties with that
19 position?

20 A. Initially, I taught sections of a
21 course in public speaking. That was during my
22 master study. Later, I assisted a professor in a
23 film production course, and to some extent with a
24 television production course, as well.

25 Q. Okay. Then after graduate school, in

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1 1973, you went to work for the University of
2 Wisconsin?

3 A. At Whitewater, yes.

4 Q. You were a director of radio and an
5 instructor in speech communication. What were
6 your-- What did you do in those positions?

7 A. As director of radio, I managed the
8 campus radio station, and that was essentially 50
9 percent of my duties. The other half consisted
10 of teaching two courses per semester, which
11 included public speaking, radio production and a
12 survey of mass communication course.

13 Q. Okay. Then in 1974, you came to USM?

14 A. That's correct.

15 Q. As an assistant professor in the
16 Departments of Communication and Radio,
17 Television and Film?

18 A. It was communication. Later, the name
19 changed.

20 Q. Okay. What have been your duties and
21 courses taught over the last 20 years that you
22 have been at Southern Mississippi?

23 A. If you will flip over to Page 6, on
24 Page 6 and 7, I have listed my courses taught. I
25 teach at the graduate level and at the

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1 undergraduate level, and I have designated them
2 separately.

3 At the graduate level, I have taught
4 primarily the course called Process and Effects
5 of Mass Communication. I have also taught Mass
6 Communication Theory, Telecommunication Policy
7 and Regulation, several communication seminar
8 topics, one dealing with Television and the
9 Modern Political Campaign and one dealing with
10 Communicating with Consumers.

11 Primarily at the undergraduate level,
12 although some of these also included a graduate
13 level component, courses called Issues in
14 Telecommunication, Telecommunication Media
15 Research, Theories of Mass Communication,
16 Telecommunication Regulation and Policy,
17 Seminar-- that is a variable topic. I have
18 taught a number of topics, Television Criticism
19 and other things. Telecommunication Media
20 Management, Advanced Management and Sales,
21 Advanced Audio Production, Broadcast Advertising,
22 Introduction to Television Production, Radio
23 Production and Survey of Mass Communication.

24 Q. What media is included in mass
25 communications?

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1 A. - Mass communication includes the
2 primary mass media, that would include print and
3 electronic media, to a limited extent film,
4 depending on the context of the-- of what is of
5 interest at the time.

6 Q. Would it be fair to say that a
7 majority of the courses you have taught and
8 things you have studied have more emphasized
9 radio and television than print media?

10 A. I think that's a fair assessment, yes.

11 Q. Okay. Your publications, you have 11
12 publications in 22 years since you received your
13 Ph.D.?

14 A. Right.

15 Q. Can you point out to me which ones of
16 these are chapters in books as opposed to
17 articles and journals? I see that the first one
18 listed, which is a work in progress, is a
19 chapter?

20 A. Right.

21 Q. The second one, which is scheduled in
22 1998 to be published, is also a chapter. The
23 fourth one, Instructor's Manual for Management of
24 Electronic Media, is that also a chapter?

25 A. No. That's a stand-alone instructor's

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1 manual.

2 Q. Okay. Is Linda Dysart Goff your wife?

3 A. Yes.

4 Q. You all work together a lot, I see?

5 A. Yes.

6 Q. Is she also a professor?

7 A. Yes.

8 Q. At University of Southern Mississippi?

9 A. Yes.

10 Q. The next publication, "Regulation of
11 Television Advertising to Children," is that part
12 of a book?

13 A. That particular listing is a chapter
14 in a book. It was originally a journal article.

15 Q. Okay. What journal did it appear in?

16 A. It is called now the Southern States
17 Communication Journal. At the time in '82, it
18 was called the Southern Speech Communication
19 Journal.

20 Q. Okay. Is that something that is just
21 published in Mississippi, or is it regional?

22 A. It is a regional publication.

23 Q. Is it a peer review?

24 A. Yes.

25 Q. The next one, "Paddy Chayefsky: A

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1 Bibliographic Essay," is that part of a book?

2 A. Yes.

3 Q. And the next one appears in the
4 Journalism Quarterly. That's a journal, I take
5 it?

6 A. Right.

7 Q. And is that also a peer review
8 journal?

9 A. Yes.

10 Q. The next one, "The Impressario Sold
11 Groceries," is that a journal article or in a
12 book?

13 A. It's a journal article.

14 Q. The Mississippi Folklore Register,
15 what kind of a journal is that?

16 A. It is an edited journal.

17 Q. Could you expand a little bit?

18 A. Well, you have used the term "peer
19 reviewed," which means, generally, to me reviewed
20 by usually two or three external reviewers. An
21 edited journal usually does not use the external
22 review. The journal editor himself or herself
23 does the review.

24 Q. Okay. What kind of articles appear in
25 the Mississippi Folklore Register? What is the

1 audience?

2 A. Folklore, as I understand it, my
3 perspective on this, it's one of treating this
4 particular topic as popular culture, which is a
5 very broad area. And "folklore" I would classify
6 as an element of popular culture.

7 Q. Okay. The next one, "Rx for OTC
8 Users," Journal of School Health, is that a peer
9 review journal?

10 A. Yes.

11 Q. Okay. "Regulation of Television
12 Advertising to Children," that's the article that
13 appears later in a book?

14 A. Right.

15 Q. And then the final one appears in the
16 Journal of Broadcasting. Is that peer reviewed,
17 also?

18 A. Yes.

19 Q. Do you consider yourself to be an
20 expert in communication studies?

21 A. Yes.

22 Q. In mass communications?

23 A. Yes.

24 Q. I see you got a minor in marketing,
25 public opinion and social psychology as part of

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1 your Ph.D. Do you have any other training in
2 marketing or advertising?

3 A. I have taken other courses in
4 marketing, consumer behavior at the University of
5 Southern Mississippi, for example.

6 Q. Have you ever testified as an expert
7 before?

8 A. No.

9 Q. Do you consider yourself to be an
10 expert in marketing?

11 A. In marketing per se, broadly, no.

12 Q. Specifically, do you consider yourself
13 to be an expert in advertising?

14 A. I consider myself to be an expert in
15 mass communication, and that includes a degree of
16 expertise in advertising.

17 Q. What about psychology?

18 A. No. I do not consider myself an
19 expert in psychology.

20 Q. What about sociology?

21 A. No.

22 Q. I have kind of taken a crash course in
23 consumer behavior and mass communications. So
24 why don't you kind of explain to me what exactly
25 is the field of mass communications? What do you

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1 teach your students? Just kind of an overview.
2 I know it is a large area of study.

3 A. The field of mass communication,
4 generally, deals with the study of mediated
5 communication. And there are many different
6 approaches to that, some of which focus on the
7 more pragmatic aspects of how these industries
8 operate, others that deal more with the social
9 effects and individual consequences of the role
10 that media plays in our lives and in the
11 culture. And it is more of that perspective of
12 the influence and the effects of mass
13 communication that my teaching tends to
14 emphasize, although I have done and covered many
15 of the other parts, as well.

16 Q. Okay. Do you smoke?

17 A. No.

18 Q. Have you ever smoked?

19 A. No.

20 Q. What about your spouse?

21 A. No.

22 Q. Your parents?

23 A. My parents did when I was younger.

24 Both of them are nonsmokers currently.

25 Q. When you were growing up, did your

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1 parents have any discussions with you about
2 smoking, that you can recall?

3 A. Probably did.

4 Q. Do you have children?

5 A. Yes.

6 Q. And how old are they?

7 A. I have a son who is 17.

8 Q. And have you talked to him about
9 smoking?

10 A. Yes.

11 Q. What have you told him?

12 A. Basically, what we have told him about
13 smoking reinforces, I think, what he hears at
14 school. He is well aware of the risks, the
15 problems associated with smoking. He doesn't see
16 us do it. We really haven't talked to him a
17 great deal about it.

18 Q. All right. When were you first
19 contacted about working on this case?

20 A. About working on the case
21 specifically, February of last year.

22 Q. Were you contacted prior to that for
23 some other reason, for information purposes or
24 something?

25 A. Yes.

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1 Q. And when would that have been?

2 A. Midsummer of '95.

3 Q. How have you been prepared for this
4 deposition? Who have you met with?

5 A. Specific preparation for the
6 deposition?

7 Q. Yes.

8 MR. HELMS:

9 Let me object to that question as
10 vague as far as the word "prepared."

11 MS. COLEY:

12 I will rephrase the question.

13 Q. Who have you met with in preparation
14 for the deposition? And I don't mean to imply
15 that anybody has coached you in any way.

16 MR. HELMS:

17 By the way, I just meant that, you
18 know "prepared," I mean, he has prepared for this
19 deposition as he has done work in the case.

20 MS. COLEY:

21 I know.

22 A. If you mean, again, in the short term.

23 MS. COLEY:

24 Yes.

25 THE WITNESS:

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1 Specifically, the two defense
2 attorneys who are present, John Helms and Allen
3 Purvis.

4 MS. COLEY:

5 Q. And I take it since February '96, you
6 have had several meetings with defense counsel?

7 A. Yes.

8 Q. In getting ready to testify in this
9 case?

10 A. Yes.

11 Q. Have you had any discussions with any
12 corporate personnel?

13 A. No.

14 Q. From your billing records that I
15 received, you are charging \$150 an hour for
16 consultation; is that correct?

17 A. \$150 for my preparation for
18 deposition.

19 Q. It appeared that you were charging
20 half that for reading time?

21 A. Right.

22 Q. Because there was a lot of material to
23 read.

24 A. You bet.

25 Q. And what is your current salary with

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1 the University of Southern Mississippi?

2 A. Right at \$62,000. I don't remember
3 the last three figures, but it's \$62,000,
4 approximately.

5 Q. Okay. If you will turn to the front,
6 your Rule 26 Expert Statement, which is Exhibit
7 3, I want to go through that with you now. Did
8 you prepare this expert statement?

9 A. I participated in its preparation,
10 yes.

11 Q. Okay. The second paragraph says, "Dr.
12 Goff will testify about the nature of the
13 communication process and about how each of the
14 components of a basic model of that process apply
15 to communication in general and to communication
16 about cigarettes and smoking in particular." I
17 want to break that down a little bit and find out
18 what you want to say about that. What do you
19 expect to testify to about the nature of the
20 communication process?

21 A. What I expect to do is to describe the
22 communication process in terms of how in the
23 field of the study of communication that process
24 is described as a model consisting of several
25 component parts, and then to discuss each of

1 those component parts as they relate to
2 communication about-- a communication in general
3 and about cigarettes and smoking in particular.

4 Q. Okay. That leads to my next
5 question. It says you are going to explain the
6 components of a basic model. What is the basic
7 model, and what are those components that you are
8 going to talk about?

9 A. The basic model of the communication
10 process is to describe communication, first of
11 all, as a process that involves several essential
12 elements, a source, a message, a channel through
13 which that message is conveyed and a receiver, or
14 multiple receivers. And usually the model is
15 finished with some consideration of a reversed
16 communication flow called feedback, and sometimes
17 also considers the response that receivers might
18 make to that process, as well.

19 Q. So that would be the general
20 explanation?

21 A. Yes.

22 Q. So specific to tobacco, the source
23 could be the American Cancer Society or the
24 source could be a tobacco company?

25 A. Yes. The source can be-- In this

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1 consideration, the source can be-- the source can
2 function at various levels, but could be the
3 American Cancer Society or a specific tobacco
4 company or a spokesperson for it, for example.

5 Q. Okay. You said that the source could
6 function at several levels. Could you explain
7 that a little bit further for me?

8 A. A source could also be a particular
9 medium, like the New York Times or Time magazine
10 or CBS Evening News. Those entities function as
11 sources, also.

12 Q. Okay. And the message could be
13 smoking is bad or you need to buy this product or
14 the Surgeon General reports that smoking is bad
15 for your health; is that kind of the gist of what
16 that element of model is?

17 A. Yes.

18 Q. What would be a channel of
19 communication?

20 A. That would be a medium. We have
21 talked about mass media, for example, television,
22 radio, magazines, newspaper. Another-- We are
23 engaging in interpersonal communication right
24 now, which is another form. It could be
25 approached from that standpoint of looking at

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1 face-to-face communication as a channel, as well.

2 Q. So I was kind of intermixing source
3 and channel; is that what I had done?

4 A. It is hard not to.

5 Q. Okay. So a channel could be a generic
6 term, a magazine, and a source could be Time
7 magazine?

8 A. Yes.

9 Q. And the receiver, who could be a
10 receiver of the message?

11 A. Typically, in a media context, we are
12 talking about people in the audience, be they
13 construed as consumers, viewers, readers.

14 Q. And feedback, how is feedback
15 measured?

16 A. How is it measured?

17 Q. Bear with me. I'm learning as I go.
18 Let's say the source of the message could be the
19 American Cancer Society and they sent the message
20 that smoking causes lung cancer; how would they
21 receive feedback and know that their message was
22 received? Is it possible to measure that?

23 A. I think-- I don't conceptualize
24 feedback in quite that way, as something that
25 always entails, you know, a measurement.

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1 Feedback in a media context is typically limited
2 and delayed.

3 Q. Okay. Using this basic model, why
4 don't you give me an example of a communication
5 that would fit into this basic model. Can you do
6 that?

7 A. Any communication?

8 Q. Any communication.

9 A. In a non-media context, for example,
10 again, the simplest form of communication we
11 teach about is interpersonal between two people.
12 As I speak or as you speak, you are the source,
13 the communicator. The message is the words that
14 are spoken. And in a case of this type,
15 inflection, non-verbal communication. And you're
16 functioning as a receiver right now because you
17 are paying attention to, listening to what I'm
18 saying. Feedback, essentially, in this context
19 is what I construe by looking at you as you
20 listen to me. In other words, it is my
21 interpretation of what you are doing while I'm
22 communicating. If you respond to me, that's a
23 form of feedback, as well.

24 Q. How about in a mass communication
25 sense?

1 A. Again, in this case, let's take the--
2 take a typical television news report, for
3 example, or a news program. The source could be
4 examined on the basis of being the television
5 station itself, the news anchor or reporter who
6 is on screen at a particular time. And in some
7 cases, that gets interwoven with attribution of
8 another source, like the American Cancer Society,
9 for example, or State Health Department.

10 The message would be, in the case of
11 television, the words, the sounds and the visual
12 images. And the receiver, in that case, we talk
13 about people in the viewing audience who watch
14 this program. The channel, of course, would be
15 the medium of television. And in a broad sense,
16 feedback might or might not take place in terms
17 of phone calls to the station, letters written,
18 that sort of thing.

19 Q. Can this basic model of communication
20 that we have been talking about be applied to
21 advertising?

22 A. Yes.

23 Q. Could you give me an example of how
24 advertising would fit into this basic model of
25 communication?

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1 A. - Let's consider-- Any particular medium
2 that you want--

3 Q. Print media; a magazine, for example.

4 A. A magazine ad, then, would-- the
5 source typically in a case of a magazine ad would
6 be the company, the product sponsoring the ad.
7 The medium, of course, would be a print form. In
8 this case, specifically a magazine, or a specific
9 magazine. The message would be the sum total of
10 the words and pictures in that particular ad.

11 And the receiver would be-- would consist of the
12 readers. Again, in the case of magazine, like
13 television, feedback would usually be rather
14 limited, often delayed, take the form, perhaps,
15 of a letter to the editor and that kind of thing.

16 Q. Could a source of feedback also be the
17 purchase of whatever product is being advertised?

18 A. I see that as a response, not
19 feedback.

20 Q. Okay. Now, the next thing is you are
21 going to take this basic model of communication
22 about cigarettes and smoking in particular. How
23 do you fit cigarettes and smoking in particular
24 into a communication model?

25 A. Could you rephrase that? I'm not

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1 quite sure what you are asking me to answer.

2 Q. Okay. Your expert statement says that
3 you are going to talk about the nature of the
4 communication process, the components of a model
5 of that process as it applies to communication in
6 general and to communication about cigarettes and
7 smoking in particular. So I want to know what
8 you expect to testify to about what is written
9 here in your expert statement, about cigarettes
10 and smoking in particular.

11 A. What I will do is to apply the
12 communication model and to talk about the
13 component elements of the communication model as
14 they relate to specific types of communication
15 that have existed and do exist about cigarettes
16 and smoking.

17 Q. Okay. So are you going to limit-- Let
18 me back up a minute. Not limit. Are you going
19 to talk about tobacco advertising as it relates
20 to the basic model of communication?

21 A. Yes.

22 Q. And are you going to talk about
23 smoking and health issues as they have been
24 communicated to the people of Mississippi under
25 the basic model of communication?

1 A. Yes.

2 Q. So we have two different categories
3 that you expect to testify to about smoking and
4 tobacco, smoking and cigarettes; one being
5 advertising and one being the health issues?

6 A. Yes. I will be covering both of
7 those.

8 Q. Let's take cigarette advertising and
9 the basic model of communication, and give me an
10 example.

11 A. An example of--

12 Q. Of how cigarette advertising fits
13 into-- can fit into the basic model of
14 communication, let's say, with out-of-home
15 advertising, billboards.

16 A. Well, from the standpoint of the model
17 itself, again, the source would be the particular
18 product manufacturer, you know, the advertiser.
19 In this case, the channel would be a particular
20 form of advertising generally called, as you used
21 the term, out of home or outdoor, what most
22 people think of as billboard advertising. The
23 message would consist of the words and the
24 picture, the visual elements of that billboard.
25 The receivers would be people who essentially

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1 pass by that billboard and essentially pay
2 attention to it. You know, that would be an
3 application of the model in that particular
4 instance, in terms of plugging that into the
5 basic elements. That's what I understand you
6 asked me.

7 Q. Uh-huh. Smoking and health issues, I
8 noticed from all of the documents that were
9 produced, there are a lot of newspaper articles
10 that reported on smoking and health issues. So I
11 take it you are going to use those articles to
12 explain to the Court how these smoking and health
13 issues have been communicated?

14 A. Yes.

15 Q. The next statement in Paragraph 2 is
16 that you will testify about the historic
17 communication environment as it relates to the
18 topic of cigarettes and smoking, both nationally
19 and in Mississippi. What do you expect to say
20 about the historic communication environment?

21 A. That a great deal of information has
22 been conveyed by media sources and other
23 non-media sources to people nationally and in
24 Mississippi about the risks associated with
25 smoking over a considerable period of time.

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1 Q. - Do you intend to say anything about
2 the communication of cigarette advertising
3 historically to the people of Mississippi through
4 mass media?

5 A. Yes. I would include that.

6 Q. When you are talking about the
7 historic communication environment, what
8 documents are you relying on in forming your
9 opinion about that subject?

10 A. I will be relying primarily on
11 newspaper articles that you have mentioned that I
12 have reviewed; I will be relying on information
13 from advertising trade publications that deal
14 with advertising campaigns involving cigarettes;
15 and I will be relying on information on public
16 education curriculum in the state of Mississippi.

17 Q. Okay.

18 A. And poll data, as well.

19 Q. Poll data?

20 A. Yes.

21 Q. Which brings another question to
22 mind. Have you had any training in epidemiology?

23 A. No.

24 Q. The next paragraph of your expert
25 statement says you will testify that the message

1 that smoking could be dangerous to health, fatal
2 and habit-forming was effectively communicated to
3 consumers, including consumers in Mississippi.

4 How do you measure the effectiveness of the
5 communication?

6 A. I'm not sure if I'm comfortable with
7 the word "measure" in that we are talking about
8 communication that has taken place over a long
9 period of time. Of course, you can't go back and
10 measure something that happened in the past. But
11 in terms of analyzing the available evidence in
12 terms of the amount and consistency-- amount of
13 communication, the number of messages, the
14 consistency of those messages; that's what I'm
15 relying on.

16 Q. So is it just because it is out there,
17 it is considered to be effective just because
18 there was so much of it? Is that kind of what
19 you are saying?

20 A. That in conjunction with the various
21 ways in which that message is reinforced through
22 multiple sources, for example. And, you know,
23 evidence from Gallup polls and things like that
24 that have trapped the public's perception of
25 understanding of issues.

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1 Q. - Okay. So in forming your opinions and
2 testifying about those issues, you are going to
3 rely on the newspaper articles-- Let me back up
4 and not put words in your mouth. What documents
5 are you going to rely on in forming your opinion
6 regarding that the message about smoking being
7 dangerous, etc., was effectively communicated to
8 consumers?

9 MR. HELMS:

10 Objection. Asked and answered.

11 MS. COLEY:

12 I asked what documents he is going to
13 rely on.

14 MR. HELMS:

15 I think that was your question before.

16 MS. COLEY:

17 But I don't think I let him answer it.

18 A. I think I did. I refer to newspaper
19 articles, poll data, information on public school
20 curricula. And really the only thing that-- I
21 mentioned trade-- advertising trade sources. And
22 I have also reviewed some videotape copies of
23 television programs, particularly older programs
24 that focused on the emerging issue of cigarettes
25 and cancer when it was a really hot issue and a

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1 relatively new issue.

2 MS. COLEY:

3 Q. Okay. The next says you will testify
4 cigarette advertisements and other industry
5 statements did not alter the effective
6 communication of health claims regarding
7 smoking. How did you arrive at this opinion?

8 A. I'm finding it on the page here.

9 Q. The middle of the third paragraph.

10 A. Would you repeat the question.

11 Q. It says that you will testify that
12 cigarette advertisements and other industry
13 statements did not alter the effective
14 communication of health claims regarding
15 smoking. My question basically is: How do you
16 know?

17 A. I base that conclusion on the fact
18 that many of the-- that this is largely focusing
19 on what is contained in advertising messages,
20 which as a class of communication, as a class of
21 messages are perceived differently from other
22 messages that are projected in, say, news
23 content, informational content.

24 Q. As part of your training in mass
25 communication, you studied advertising as a class

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1 of communication?

2 A. What I'm referring to is one of the
3 source elements, one of the elements of the
4 source of the message. In other words, receivers
5 of communication have opinions and perceptions
6 and evaluations of sources and messages, and that
7 affects their interpretation of the communication
8 they receive from those sources.

9 Q. Okay. In studying mass communication,
10 do you classify receivers into different groups,
11 demographics?

12 A. Yes.

13 Q. Prior to being hired on this case, had
14 you ever done any work regarding tobacco
15 advertising as far as studying it?

16 A. What do you mean by "work"? You mean
17 working for the industry?

18 Q. No. I mean just like studying it,
19 analyzing it, teaching it, using it in your
20 classes in any way.

21 A. Not in terms of focusing specifically
22 on cigarettes or tobacco. But in a general
23 sense, it is an element of the product mix of a
24 component of advertising that I've certainly
25 considered, evaluated, used as examples in

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1 teaching.

2 Q. The bottom of Paragraph 3 on your
3 expert statement says that you will testify that,
4 notwithstanding exposure to cigarette advertising
5 and other industry statements, consumers
6 "received" and "understood" communications
7 regarding the claimed risks of smoking. My
8 question again is: How do you know?

9 A. Again, the best answer, I think, to
10 that question is that, you know, Gallup poll data
11 since the 1950s has essentially tracked that type
12 of information. There is, I think, ample
13 evidence that people have received the message
14 and they understand the message.

15 Q. Okay. The beginning of Paragraph 4,
16 you will testify about the effects of media on
17 consumers, and the effectiveness of mass mediated
18 messages in attempting to change consumer
19 behavior. What types of media?

20 A. Again, I will be primarily referring
21 to the major mass media; newspapers, magazines,
22 radio and television, to some extent outdoor.

23 Q. Okay. And what are you going to say
24 about the effects of media on consumers?

25 MR. HELMS:

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1 Let me object to that question as
2 calling for speculation, because I don't think
3 there is any way he can say what he is going to
4 say. He can say what he anticipates saying, if
5 he anticipates saying anything. He can answer
6 your questions as to what his opinions are, but
7 he can't really tell you what he will say.

8 MS. COLEY:

9 Q. Okay. What are your opinions about
10 the effects of media on consumers?

11 A. In that context, the context of that
12 specific question, the effects of media on
13 consumers, media convey a great deal of
14 information to consumers that they take into
15 account in terms of making decisions as
16 consumers. There are different-- There is a wide
17 array of different types of information available
18 and conveyed by media. Some types that consumers
19 seek out, such as reading a review in Consumer
20 Reports; others which reach the consumers
21 routinely, such as advertising that come from a
22 source with a particular, you know, sales
23 orientation. And consumers evaluate these
24 different sources differently. They're
25 concerned-- Well, "concerned" is not the right

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1 word here. They are cognizant of the nature of
2 sources, the different types of information that
3 are conveyed.

4 Q. Okay. Am I correct in your CV you
5 have done some work in communicating about AIDS?

6 A. Yes.

7 Q. Okay. It says you will testify about
8 the effectiveness of mass-mediated messages in
9 attempting to change consumer behavior. What is
10 your opinion about that statement, about the
11 effectiveness of mass-mediated messages? Do you
12 think that mass-mediated messages are effective
13 in attempting to change consumer behavior? I
14 mean, generally, you can use specifics, I know--
15 or I think sometimes it is effective and
16 sometimes it is not. Would that be a correct
17 statement?

18 MR. HELMS:

19 I'm sorry. Do you want him to answer
20 the last question?

21 MS. COLEY:

22 That was convoluted, wasn't it?

23 Q. Is mass media, can it be effective in
24 attempting to change consumer behavior? Do you
25 have an opinion about that?

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1 A. . Ordinarily, I think it is a fairly
2 weak influence that functions amidst a great many
3 other types of influences on consumer behavior.

4 Q. What other influences on consumer
5 behavior are stronger?

6 A. Other people, personal experience, you
7 know, direct experience with products. Like I
8 said, the opinions of others. There are a
9 variety of individual social categories, cultural
10 variables that affect this. A number of
11 demographic factors influence people's consumer
12 decision making. So, really, there are a whole
13 host of factors that come into play. Consumer
14 behavior is a very complex behavioral area.

15 Q. Okay. The next sentence in Paragraph
16 4 says that you will also testify about various
17 marketing, advertising and promotional practices
18 and media effects within the state of
19 Mississippi. Are you going to use tobacco-
20 specific products to talk about marketing,
21 advertising and promotional practices, or are you
22 going to just talk about that generally? What is
23 your anticipation about that?

24 A. I'm going to, you know, talk about it
25 primarily generally, but I will also be referring

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1 to some specific cigarette advertising practices.

2 Q. Have you read any depositions of any
3 other experts that have testified already in this
4 case?

5 A. By "testify," do you mean given
6 depositions?

7 Q. Yes.

8 A. Yes, I have.

9 Q. Which ones?

10 A. Dean Krugman.

11 Q. Okay. I'm done with your expert
12 statement.

13 You also provided me some videotapes
14 that you talked about earlier of news clippings,
15 and I believe there were some movie clips and
16 some cartoons, and I think they started around
17 1950. My guess was about 1952. Do you have an
18 index to show the dates and times of those
19 clips? There were some clips I couldn't tell
20 where they came from.

21 A. I believe the versions-- I don't
22 know-- Do you have them with you?

23 Q. No.

24 A. I don't know how they were labeled,
25 you know, the copies that were sent to you. But

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1 I believe the labels on my copies have dates on
2 them.

3 Q. Okay. Were these sent to you, or did
4 you pull these?

5 A. You mean, did I record them myself,
6 no. That was from a long time ago. This was
7 from a historical collection.

8 Q. Do you know whose historical
9 collection?

10 A. Yes.

11 Q. Whose?

12 A. I received those from the-- At that
13 time, I guess I received those from an attorney
14 named Jan Johnson, at that particular point in
15 time.

16 Q. Okay. Do you know the demographic of
17 the audiences of any of the shows that were on
18 the videotapes?

19 A. Not to be able to tell you right now.
20 Some of the programs, such as some of the "See It
21 Now," with Edward R. Murrow, that type of
22 information should be available. I haven't
23 researched it, though.

24 Q. Like I said before, there were some
25 clips that were just kind of real short, and

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1 there was kind of no indication what show they
2 were on or what news, if they were on the 6:00
3 news. Do you have any of that information?

4 A. A number of the individual clips were
5 from news documentaries that were aired. They
6 were more commonplace in the 1950s and '60s on
7 television news. And I believe that-- I don't
8 have, again, off the top of my head the specific
9 dates and times of those. Whereas, for example,
10 the more intact, complete Murrow program, you
11 know, that was a one-time kind of broadcast.

12 Q. How do you expect to prove that, for
13 instance, the Ed Murrow "See It Now" program
14 actually aired in Mississippi?

15 MR. HELMS:

16 Let me object to that as assuming
17 facts not in evidence, because it assumes he will
18 attempt to prove that, which I don't know.

19 MS. COLEY:

20 Well, I think that in order for him to
21 testify about the videotape as being an effective
22 form of communication to the people of
23 Mississippi, he is going to need to be able to
24 show, or you will at least, that it actually
25 aired in Mississippi.

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1 MR. HELMS:

2 That depends on how it is used, what
3 he does with it. I mean, it depends on a lot of
4 things.

5 MS. COLEY:

6 Q. Okay. What do you expect to do with
7 those videotapes at trial?

8 A. What I would use that information for
9 would be to-- since there is not a lot of
10 historical television material, it is not as easy
11 to obtain. There isn't as much of it available
12 as, for example, newspaper fact issues.

13 Several of those programs that are
14 included on those tapes are programs and pieces
15 of programs that aired nationally. And my
16 recollection is that, like the Murrow program,
17 and, you know, indeed several Murrow programs--
18 That was a very popular program. It was, in a
19 sense, kind of the "60 Minutes" of its day, in
20 that it had a fairly large Murrow following. And
21 I am relatively certain that I recall seeing that
22 program referenced in Jackson newspaper
23 clippings.

24 Q. Okay. What about the cartoons? How
25 do you intend to use those?

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1 A. Again, those are simply
2 representatives of depictions of smoking that
3 were commonplace at that point in time. For
4 example, there is a Goofy cartoon. I remember
5 seeing that as a kid. You know, that was run
6 periodically on the various Disney programs that
7 existed back then.

8 MR. HELMS:

9 Could we take a break for a second?

10 (A recess was taken.)

11 MS. COLEY:

12 Q. Okay. We were talking about
13 videotapes before we took a break. There was a
14 videotape of gaming reports. How is that
15 relevant to your testimony in this case? How do
16 you anticipate using those at trial?

17 MR. HELMS:

18 Objection.

19 (Off the record.)

20 MR. HELMS:

21 I'm sorry. Jennifer, I was just going
22 to object to the first part of the question where
23 you asked how it is relevant. It is calling for
24 a legal conclusion. I'm not sure if you are
25 still asking that question or not.

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1 MS. COLEY:

2 Q. I don't use the term "relevant"
3 legally. What I'm getting at is: What are you
4 going to say about the gaming reports that are on
5 the videotapes? What do you anticipate saying
6 about them?

7 A. I'm interested in particularly the
8 advertising content, looking at the way in which
9 casinos are advertised as regulated industry.

10 Q. Are you planning on comparing that
11 type of advertising with tobacco advertising?

12 A. That is possible.

13 Q. Okay. Did you have anything to do
14 with the documents that were sent to me as far as
15 their selection?

16 A. Yes.

17 Q. How did that work? Did you tell
18 defense counsel, go get all of these newspaper
19 articles, or did defense counsel go get the
20 newspaper articles and sent them to you?

21 A. I'm hearing two questions here. You
22 are talking about was I involved in selecting the
23 articles that you received?

24 Q. That's my question.

25 A. Yes. I selected all of the articles

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1 that you received. All of the materials that you
2 received in your boxes were in my possession.
3 And I determined from materials in my possession,
4 which I was relying on, which is what you
5 received.

6 Q. How did the documents come to be in
7 your possession, not just the ones you sent me,
8 but all of the documents?

9 A. Some of them stem from library
10 research of my own, local sources, that sort of
11 thing. Others stem from initial research that I
12 did using, again, library resources like the
13 Readers Guide, various indices, tracking the
14 cigarette-related issues, the health issues, as
15 well as advertising, essentially from about 1950
16 onward, although in some cases further back than
17 that. And then conferring with Mr. Purvis and
18 Jan Johnson and talking about-- I was aware that
19 they had historical archives, as well. I made
20 requests for Clarion-Ledger material and other
21 historic materials from them.

22 Q. What criteria did you use in selecting
23 the articles that have been sent to me?

24 A. I felt the articles, in particular,
25 say, newspaper articles, out of the larger

1 collections, I felt the materials that I have
2 selected at this point were more germane to my
3 particular interests and my particular
4 involvement. In other words, they were more on
5 target the kinds of things that I have already
6 covered in relationship to my Rule 26 Expert
7 Statement.

8 Q. Did you pull all of the articles that
9 you could find on smoking and health since 1950,
10 for instance, that appeared in The Clarion-
11 Ledger, or did you select certain ones?

12 A. In terms of what has been sent to
13 you?

14 Q. Yes.

15 A. No. That's not all I have selected,
16 certainly. I have been selective in what I have
17 pulled from the larger sets of material.

18 Q. And the other ones that were not sent
19 to me, you do not intend to rely on?

20 A. That's correct.

21 Q. You also included several articles on
22 alcohol.

23 A. Are you talking about--

24 Q. In the newspaper articles.

25 A. Okay. Yes. From time to time,

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1 realizing that there are-- there is what I
2 consider to be a somewhat parallel set of health-
3 related concerns about alcohol products and their
4 promotion. I have included those, as well. In
5 some cases, they are indicative of a broader
6 scope to health-related coverage than simply
7 dealing with the tobacco issue.

8 Q. Would that also apply to-- There were
9 a couple of articles on radon in homes?

10 A. Yes.

11 Q. Why were those articles selected?

12 A. Radon has been speculated-- Well,
13 radon, I believe, is known to have a cancer risk
14 associated with it.

15 Q. You also included several articles
16 about tobacco stocks and buyouts of other
17 companies or by other companies, for instance,
18 when RJR Nabisco merged. Why were those
19 documents selected?

20 A. They are indicative of the fact that
21 activities of tobacco companies are covered more
22 broadly than simply the health-related effects or
23 the health issue associated with it. And in some
24 cases, also, those articles provide economic
25 information related to these industries.

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1 Q. Have you read every single word-- not
2 every single word, but every document that has
3 been produced to me?

4 A. Have I read every single-- Not every
5 single word. Much of that material, I have
6 read. Some of it I have read more closely than
7 others.

8 Q. Why were all of the New York Times,
9 Newsweek and Time magazine articles selected?
10 Why did you pick those three sources?

11 A. Time and Newsweek are and have been
12 historically the two largest circulation weekly
13 news magazines in the country, and I think are
14 generally regarded as fairly authoritative and,
15 again, broadly disseminated sources. New York
16 Times is, again, as a newspaper, one of the
17 so-called prestige newspapers. And, again, if an
18 important issue or a major story or even an
19 intermediate level story is going to be covered
20 by someone, I would presume the New York Times
21 would do that. It is a good authoritative source
22 to track the historical development of these
23 issues.

24 Q. Are the demographics of those sources
25 important to you in forming your opinions on the

1 effectiveness of the message?

2 A. I'm relying on New York Times, Time
3 and Newsweek primarily for their historical
4 relevance.

5 Q. You mentioned earlier relying on trade
6 publications and advertising. Would those be the
7 Advertising Age articles that were selected?

8 A. Yes.

9 Q. And Advertising Age is a trade paper
10 that is not regularly read by the general public;
11 is that correct?

12 A. That's correct.

13 (Off the record.)

14 MS. COLEY:

15 Q. Dr. Goff, I pulled some articles, and
16 I have some questions for you about that.

17 Go ahead and mark this as an exhibit.

18 (Exhibit 4 was marked.)

19 MS. COLEY:

20 Q. This has been marked as Exhibit 4. It
21 is Bates Number 868 through 884. It appears to
22 be a copy of a Weekender insert in The
23 Clarion-Ledger from January 23rd, 1997. Can you
24 tell me why this document was selected? And I
25 don't know if this is a complete copy of the

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1 Weekender, but it appears to be.

2 A. This is a copy that you received in
3 material that I produced?

4 Q. Yes.

5 A. I think there were two of these
6 Weekenders, and I have the original in my
7 possession. And I could certainly verify for
8 you, you know, not at this moment, but this would
9 appear to be complete.

10 Q. So from that testimony, I take it, you
11 have seen this before?

12 A. Oh, yes.

13 Q. And what was the purpose of selecting
14 this document for your testimony in the case?

15 A. I was primarily interested in--

16 MR. HELMS:

17 Let me object to that as assuming
18 facts not in evidence. It assumes that he
19 selected this for his testimony, which he doesn't
20 know what he is going to say until he's asked. I
21 think I know what you mean. I think you mean why
22 did you pick it.

23 MS. COLEY:

24 Exactly.

25 THE WITNESS:

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1 Again, I was interested in,
2 particularly in the way in which the casino, the
3 gaming industry in the state, is promoted and
4 advertises itself; the various forms of promotion
5 that are used.

6 MS. COLEY:

7 Q. What about the casino advertising is
8 important in forming your opinions in this case?

9 A. I guess the best answer to that is I
10 am interested in the way in which brand identity
11 is established in the casino industry, types of
12 appeals that are used.

13 Q. Let's take an example. On Page Bates
14 Number 874, there is an Isle of Capri in
15 Vicksburg ad.

16 Candace, can you go back and read his
17 answer to why he is interested in casino
18 advertising?

19 (The answer referred to was read.)

20 MS. COLEY:

21 Q. This ad advertises the Isle of Capri.
22 You said you are interested in brand identity and
23 the types of appeals that are used. What type of
24 appeal is used in this ad?

A. Basically, the ad refers to the major

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1 headline, "Your Earning Power Continues to
2 Increase at the Isle." The smaller print copy
3 refers to double jackpots, higher odds on craps
4 and single-deck blackjack. And then another
5 portion of the ad has, in larger print, "Double
6 Jackpots On Slots, 20 X Odds On Craps, Single
7 Deck Blackjack." I don't pretend to know exactly
8 what all of those mean, but the clear intention
9 to me is to suggest that the Isle of Capri Casino
10 offers the gambler perhaps a better shot at
11 winning money.

12 Q. Okay. Did you say earlier that you
13 would anticipate possibly comparing the gaming
14 advertising with tobacco advertising?

15 A. That is possible.

16 Q. Could you compare this ad with any
17 tobacco advertising?

18 A. Again, from the standpoint of
19 establishing-- If this ad is used as an example
20 of part of a consistent effort to position the
21 Isle of Capri Casino as a place where your odds
22 of winning are better, that is an example to me
23 of attempting to maintain a consistent message
24 and perhaps establish a brand identity.

25 Q. I see. So all of this casino

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1 advertising can be used in comparison with
2 tobacco advertising, kind of with a market share
3 in mind?

4 A. Well, would you state that in the form
5 of a question.

6 Q. Do you think casinos advertise to get
7 people to come gamble?

8 A. No. I think casinos advertise to
9 people who are planning to go gamble, to get them
10 to come to their establishment as opposed to the
11 competitor's establishment.

12 Q. Would you say the same thing about
13 tobacco advertising in regards to getting people
14 to buy a specific brand, as opposed to getting
15 people to smoke?

16 A. Yes. I believe that tobacco
17 advertising is interested in getting people to
18 use a particular brand, yes.

19 MS. COLEY:

20 Okay. I'm done with that exhibit.

21 Could you make this Exhibit 5?

22 (Exhibit 5 was marked.)

23 MS. COLEY:

24 Q. Dr. Goff, this is kind of a composite
25 exhibit. It has Bates Number 856, 857 and 860.

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1 I will let you look at these three pieces of
2 paper. Do you recognize these as being--

3 A. I believe what they have done is
4 copied the wrong side of some pages from Southern
5 Living.

6 Q. Okay. That was my question. I didn't
7 understand--

8 A. On the other side of these pages,
9 there was casino advertising.

10 Q. Okay.

11 A. And I still have them.

12 MS. COLEY:

13 Okay. I would just ask that y'all
14 make copies of those, and I know you will.

15 MR. PURVIS:

16 For the record, they may be in there.
17 I suspect everything was copied.

18 MR. HELMS:

19 Not to say that you haven't been given
20 the pages that he is interested in, but I have no
21 problem with going back and doing that for you,
22 if you like.

23 MS. COLEY:

24 Okay. And I will admit there is a
25 possibility I got some of these out of order.

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1 Q. - Before I mark this as an exhibit, just
2 take a look at it and see if that was supposed to
3 be copied?

4 A. No. This was a piece of the Gulf
5 Coast newspaper, and inside there were some
6 casino ads that were marked for copying.

7 MS. COLEY:

8 Just for record purposes, this is
9 Bates Number 861, and I'm not going to attach it.

10 Mark this the next exhibit.

11 (Exhibit 6 was marked.)

12 MS. COLEY:

13 Q. Dr. Goff I'm showing you what has been
14 marked as Exhibit 6. Do you recognize that? It
15 is Bates Number 3758 through 3759 of the
16 materials I received.

17 A. Yes.

18 Q. Is this one of the documents you
19 selected to be produced to me?

20 A. I would have to compare it to what is
21 in my box. As you mentioned, there are a great
22 many copies from The Clarion-Ledger. I haven't
23 memorized all of them. But I could confirm or
24 disconfirm that.

25 Q. This document at the heading of The

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1 Clarion-Ledger, it is an article "Angry House
2 Members Reject Funding for Moore's Office," and
3 it appears to be when the Attorney General sued
4 the State over the lottery issue. Do you
5 anticipate using this article in forming any
6 opinions in this case?

7 A. As I look at it now, probably not. As
8 I was going through the process of pulling
9 materials from the larger set, I may not have
10 given it at that point a close enough reading.
11 But as I look at it now, I'm not ruling that
12 out. This is from 1990. I can barely read the
13 copy, actually.

14 Q. I was just curious why this article
15 was selected.

16 A. In all likelihood, my selection of it
17 was keyed by the phrase "lottery issue," which
18 is, you know, related to, in my mind, similar to
19 the idea of legalized gambling.

20 Q. So would this be just a message that
21 was communicated to the public about gambling,
22 about the lottery?

23 A. As I read it now, I see it as more
24 background information for myself.

25 Q. Okay. Thank you.

1 (Off the record.)

2 (Exhibit 7 was marked.)

3 MS. COLEY:

4 Q. Dr. Goff, this has been marked as
5 Exhibit 7. It is my highlighting on Bates Number
6 3856 of an article in The Clarion-Ledger from
7 January 25th, 1992, entitled "Fordice
8 Philosophy: Hike Cigarette Tax, Snuff Smoking."
9 Why did you select this article?

10 A. Primarily because of my interest in
11 this ongoing litigation in the state of
12 Mississippi. It is background information for
13 me.

14 Q. Background information. Going back to
15 your basic model about communication, is the
16 source of the message important in whether or not
17 the message is effective?

18 A. It can be, yes.

19 Q. For instance, the credibility of the
20 source?

21 A. Indeed.

22 Q. So if the governor of the State of
23 Mississippi were to say something, do you have an
24 opinion on whether the citizens in Mississippi
25 would consider that source credible?

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1 A. - That depends. Obviously, particularly
2 a political figure is going to be both liked and
3 disliked, believed or disbelieved. So it depends
4 on the individual.

5 Q. So a message from Governor Fordice
6 could be effective with people who support him,
7 but ineffective with people who do not?

8 A. That's quite possible, yes.

9 Q. Is the issue, the message itself,
10 important in whether or not it is effective? For
11 instance, if a person is interested in the
12 message?

13 A. Yes. The message can, and certainly
14 the topic, you know, the issue of concern, the
15 message can be a part of that equation, as well.
16 If you refer back to the model we talked about
17 earlier, just as there are source-related
18 considerations, there are message-related
19 considerations, as well.

20 Q. So, for example, in this article,
21 Governor Fordice is talking about cigarette
22 taxes. I would presume, and correct me if I'm
23 wrong, that a cigarette smoker would probably be
24 interested in this issue?

25 A. That's possible, yes.

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1 Q. Doesn't involvement with the message
2 have some degree of influence on the
3 effectiveness of the message?

4 A. In terms of the likelihood of, for
5 example, paying attention to the message, you
6 mentioned the idea of raising the cigarette tax.
7 Well, that is a pocketbook issue that may attract
8 a smoker's attention.

9 Q. Could you read into the record the
10 highlighted portion of that article?

11 A. This is, looks like, about three-
12 quarters of the way through the article, "Fordice
13 said, 'The more we can do to discourage smoking,
14 the more that we're going toward containing
15 health care costs.'"

16 Q. Thank you. I looked at all of the
17 articles that were copied from The Clarion-
18 Ledger, all of them, and the ones that related to
19 smoking and health, because there were some
20 others mixed in there that we've talked about
21 previously. There were a whole lot of them that
22 reported about the cancer scare, the 1964 Surgeon
23 General's report. There were a lot of articles,
24 apparently-- In the early '50s and '60s, there
25 was, I guess, a local physician who had a column

1 in The Clarion-Ledger who would address smoking
2 and health issues. And there were some other
3 articles that seemed to contradict the massive
4 articles that asserted that smoking was related
5 to ill health effects.

6 A. Yes.

7 Q. What is your general take on all of
8 those articles?

9 A. That is awfully broad. I'm not quite
10 sure what you are asking me.

11 Q. Okay. I guess I want to know, do you
12 think that all of those articles that talked
13 about smoking and ill health effects of smoking
14 outweigh the articles on studies that said
15 smoking isn't related to lung cancer?

16 A. I think that the preponderance of
17 articles, again, looked at over time, certainly
18 move clearly in the direction of becoming more
19 definitive and much more definite about the
20 health effects of smoking. Most of the articles
21 you are referring to are calling into question
22 conclusions about a link, for example, between
23 cigarette smoking and lung cancer occurred
24 earlier in the 1950s and in the early '60s and
25 even some shortly after the Surgeon General's

1 report in 1964. But they were generally
2 outnumbered by the other articles and the
3 consistency of the other messages.

4 Q. I'm going to show you another
5 composite exhibit.

6 Mark that.

7 (Exhibit 8 was marked.)

8 MS. COLEY:

9 Q. She has marked this as Exhibit 8.
10 And, for the record, it is three pages, Bates
11 Number 2128, 2197 and 2492. The first page,
12 there is an article "LBJ Miffed at Surgeon
13 General For Jumping Gun On Cigarettes." I
14 presume this was from The Clarion-Ledger,
15 something 1964.

16 A. Mine says March 19th.

17 Q. Okay. Oh, there it is. Do you
18 recognize this as being an article you selected?

19 A. Yes.

20 Q. Would you read the first paragraph?

21 A. This is a column by Jack Anderson
22 writing in place of Drew Pearson. It is a
23 syndicated column. "President Johnson is nettled
24 over the rush of government officials to speak
25 out on the cigarette controversy before he has

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1 had time to study all the recommendations and
2 decide what should be done about cigarettes."

3 Q. Under your basic model of
4 communications, would you consider the source of
5 this message, being The Clarion-Ledger, to be
6 important to the people of Mississippi?

7 A. The source-- Again, we talked earlier
8 about how the source can be construed -
9 differentially. To some people, The
10 Clarion-Ledger may be perceived as the source.
11 This is a basically assigned column, a syndicated
12 column, you know, attributing the information to
13 a writer, in this case Jack Anderson, as well.
14 So he is actually the source, but The
15 Clarion-Ledger, of course, conveyed it, and they
16 take on characteristics of the source, as well,
17 in this case.

18 Q. Would LBJ be considered to be a source
19 of information in this article?

20 A. If he is quoted. Perhaps, in the case
21 of a quote.

22 Q. All right. Read the next paragraph.

23 A. "He," referring to President Johnson,
24 "is particularly annoyed with Surgeon General
25 Luther Terry, who, without the formality of going

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1 through channels, has called for curbs on
2 cigarette advertising. The President believes
3 Terry should stick to reporting the facts and let
4 the White House set the policy on the smoking
5 problem."

6 Q. And then go ahead and read the next
7 paragraph.

8 A. The whole paragraph or the part that
9 you've highlighted?

10 Q. The whole paragraph.

11 A. "This does not mean that Johnson,
12 under pressure from the tobacco interests, is
13 seeking a weaker solution. On the contrary, he
14 has declared privately that the government's
15 first duty is to protect the public health."

16 Q. Okay. If you will turn to the second
17 page, which is Bates Number 2197, an article from
18 The Clarion-Ledger, January 24th, 1965. "LBJ
19 Ignoring Smoking Hazard." Would you read the
20 highlighted portion for me, please?

21 A. Yes. This is about a little less than
22 halfway through the article, another Jack
23 Anderson column. "President Johnson isn't alone
24 in appearing to put tobacco profits ahead of
25 public health. Last year tobacco state senators

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1 and congressmen quietly killed a \$2 million
2 appropriation to help educate children on the
3 dangers of smoking."

4 Q. Okay. Then the next page, which is
5 Bates Number 2492, another Jack Anderson article
6 from The Clarion-Ledger, September 10th, 1969,
7 "Ex-LBJ Aide On Health Research Now On Cigarette
8 Lobby Payroll." Could you read the highlighted
9 portion?

10 A. "A former LBJ aide, who tried to use
11 his White House position to soften the
12 government's press releases against smoking, has
13 now teamed up on the payroll of the Tobacco
14 Institute. He is Fred"-- I can't make out the
15 name.

16 Q. Panzer.

17 A. -- "who worked on health research at
18 the White House before he signed on with the
19 cigarette lobby."

20 Q. Thank you. In the earlier articles
21 that you pulled, do you think it was a clear
22 message that smoking was bad for your health?

23 A. Define "early articles."

24 Q. Between the 1950s, when the cancer
25 scare first occurred, up through up to the late

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1 '60s, within the four, five years after the
2 Surgeon General's report.

3 A. I think it is less consistent up until
4 1964. You get a little bit of both points of
5 view. There were, I think-- There were
6 differences of opinion expressed in the press, in
7 the media, during that period of time. And those
8 different points of view trail off rapidly after
9 1964.

10 Q. In reviewing all of these newspaper
11 articles and the magazine articles and the
12 videotapes, did you find any instance in which
13 the tobacco industry admitted that smoking was a
14 cause of lung cancer?

15 A. In total? In all of the period I have
16 covered or in specific periods?

17 Q. In the entire period that you have
18 covered.

19 A. I can't say categorically no. I do
20 recall one reference to a-- Are we talking about
21 in all of the material?

22 Q. In all of the material.

23 A. I recall one instance of a tobacco
24 industry person, this would have been in the
25 1970s, making a comment that a person would have

1 to be, I think his words were deaf and blind, to
2 not have heard that message by this time.

3 Q. But was that actually an admission by
4 the tobacco industry?

5 A. No.

6 Q. Thank you. In the early '50s and
7 through the '60s, how would you characterize the
8 issue of smoking and health? I'm trying not to
9 put words in your mouth. Would you characterize
10 it as a controversy, as not resolved, as set in
11 stone?

12 A. In the 1950s, the media seemed to
13 treat it as not entirely resolved, although it
14 frequently reported on some very authoritative
15 figures who asserted the link between smoking and
16 lung cancer in particular.

17 Q. Are you aware, or have you been made
18 aware, that in the 1950s, that the tobacco
19 industry set out-- it has been alleged that they
20 set out to create a controversy about smoking and
21 health?

22 MR. HELMS:

23 Let me object to the question as
24 vague. Are you asking him if he is aware of the
25 allegation?

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1 MS. COLEY:

2 I'm asking if he is aware of the
3 allegation.

4 A. Yes.

5 MS. COLEY:

6 Mark that the next exhibit.

7 (Exhibit 9 was marked.)

8 MS. COLEY:

9 Q. I'm going to show you what has been
10 marked as Deposition Exhibit 9. Have you ever
11 seen this document before?

12 A. No, I have not.

13 Q. For the record, this is a memorandum
14 dated May 1, 1972. There is a Bates number at
15 the bottom, 20999 through 21102.

16 MR. PURVIS:

17 Just for the record, Jennifer, the
18 Bates number you just referred to is not from the
19 Goff production set. It is a different
20 numbering.

21 MS. COLEY:

22 Correct. This document has been used
23 as exhibits in other depositions.

24 Q. It is a memo to Horace Kornegay from
25 Fred Panzer. Would you read for me the third

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1 paragraph?

2 MR. HELMS:

3 I'm sorry. You want him to read a
4 part of it?

5 MS. COLEY:

6 Yes.

7 MR. HELMS:

8 Have you had a chance to read the
9 whole thing?

10 THE WITNESS:

11 No.

12 MR. HELMS:

13 I mean, I don't see what the point of
14 having him read a document he has never seen,
15 read a sentence from it into the record, when the
16 document speaks for itself. If you want to ask
17 him about it, I think you ought to give him a
18 chance to read it.

19 MS. COLEY:

20 Q. Why don't you go ahead and take the
21 time to read the document.

22 A. I have read it.

23 Q. Okay. This document was written in
24 1972, and you stated previously that you felt
25 like kind of after the Surgeon General's report

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1 of 1964, the message was pretty clear that
2 smoking was related to ill health and that in the
3 1950s it was still not really clear, and the
4 press treated it that way. What did you read in
5 this document?

6 MR. HELMS:

7 Let me object to the first part of the
8 question as mischaracterizing his earlier
9 testimony, although the record will speak for
10 itself. Let me object to the second part, which
11 is "What did you read in this document?" as
12 impossibly vague. If you understand the
13 question, go ahead and answer it.

14 A. I would have to agree, it is very
15 vague.

16 MS. COLEY:

17 Q. My question or the document?

18 A. The question about what did I read in
19 this document.

20 Q. Okay. Would you say that this
21 document states that the tobacco industry sought
22 to create doubt about the relation between
23 smoking and ill health?

24 MR. HELMS:

25 Let me object to the question as

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1 asking him to characterize a document that he
2 hasn't seen and asking him to interpret what it
3 means. That is calling for speculation. You can
4 answer, if you can.

5 MS. COLEY:

6 I'm just asking him to read quotes
7 into the record. I think the document speaks for
8 itself. I just wanted to know what he thought
9 about it.

10 Q. Read Paragraph 3.

11 A. "While the strategy was brilliantly
12 conceived and executed over the years helping us
13 win important battles, it is only fair to say
14 that it is not - nor was it intended to be - a
15 vehicle for victory. On the contrary, it has
16 always been a holding strategy, consisting of
17 creating doubt about the health charge without
18 actually denying it, advocating the public's
19 right to smoke, without actually urging them to
20 take up the practice, encouraging objective
21 scientific research as the only way to resolve
22 the question of health hazard."

23 Q. On the videotapes, do you recall on
24 the first tape, I believe it is in the first
25 couple of news reels, there was a gentleman by

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1 the name of Clarence Cooklitter, who was a
2 doctor. He was a doctor. Do you remember him in
3 those news reels?

4 A. It has been a long time since I have
5 looked at those material, and it's not very fresh
6 in my mind. That name rings a bell.

7 Q. Okay. Without showing you the
8 videotape, I'm not going to ask you if you
9 remember what he said.

10 We read from an earlier article that
11 Fred Panzer used to work for LBJ's staff?

12 A. Right.

13 (Off the record.)

14 (A recess was taken.)

15 MS. COLEY:

16 Q. I know the record speaks for itself,
17 but I believe you testified earlier that you felt
18 from examining all of these newspaper articles
19 and other articles and other things you are
20 relying on, that the message regarding smoking
21 and health had been effectively communicated,
22 generally?

23 A. Yes.

24 Q. Okay. I'm going to kind of segregate
25 into time periods, and the next documents I'm

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1 going to show you relate to the 1950s' "cancer
2 scare."

3 Mark that.

4 (Exhibit 10 was marked.)

5 MS. COLEY:

6 Q. I show you what has been marked as
7 Exhibit 10 to your deposition. And it is Bates
8 Number 1894 of the documents that were produced
9 to me. Do you recognize this article?

10 A. Yes.

11 Q. And could you tell us, for the record,
12 what it is?

13 A. This is from a section of The
14 Clarion-Ledger where small snippets of news were
15 regularly included.

16 Q. And the date?

17 A. Is this from The Clarion-Ledger or New
18 York Times?

19 Q. I think this is from The
20 Clarion-Ledger.

21 A. It looks like Page 88, and it is
22 unusual for The Clarion-Ledger to have that many
23 pages unless it is a Sunday.

24 Q. Okay.

25 A. The article, at any rate, is headed

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1 "Less Tobacco Needed For More Cigarettes."

2 Q. And the date?

3 A. July 17th, 1957.

4 Q. And could you read the first sentence
5 into the record for me, please?

6 A. "Of interest to state smokers is a
7 current report by the U.S. Department of
8 Agriculture that cigarette consumption appears to
9 be headed for record levels during 1957."

10 Q. And when was it first reported that
11 smoking was thought to be a cause of lung cancer?

12 A. There are various-- 1954 was a major
13 year, but there were allegations of the link
14 prior to that time.

15 Q. And here in 1957, it appears that
16 cigarette consumption is on the rise?

17 A. That's correct.

18 MS. COLEY:

19 Mark this the next exhibit, please.

20 (Exhibit 11 was marked.)

21 MS. COLEY:

22 Q. I'm going to show you what has been
23 marked as Exhibit 11. Do you recognize this? It
24 is Bates Number 1909 of the documents that were
25 produced to me.

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1 A. Yes, I recognize it.

2 Q. And could you tell us what this is?

3 A. This is a Jackson Daily News report on
4 a Gallup poll, looks like August 10th, 1958.

5 Q. And the title of the article?

6 A. "Health Service Reports Fail To Scare
7 Smokers."

8 Q. And could you read the first paragraph
9 into the record for me?

10 A. "The U.S. Public Health Service report
11 on higher death rates among cigarette smokers has
12 yet to have any considerable effect on the
13 smoking habits of the American people."

14 Q. Thank you.

15 A. Is that as far as you wanted me to go?

16 Q. Yes.

17 I'm going to have her mark another
18 exhibit.

19 (Exhibit 12 was marked.)

20 MS. COLEY:

21 Q. I'm going to show you what has been
22 marked as Exhibit 12. Do you recognize this? It
23 is Bates Number 1924 of the documents that were
24 produced to me.

25 A. Yes, I recognize it.

1 Q. Could you tell us what this is?

2 A. It is a copy from the front page of
3 The Clarion-Ledger for April 4th, 1959.

4 Q. And there is a little insert article
5 that has been circled. Could you read that whole
6 article for me into the record?

7 A. "Americans Set New Record For Smoking
8 Of Cigarettes." "Americans smoked cigarettes
9 last year at the rate of 185"-- I think that's
10 185; it's hard to tell from this copy-- "packs
11 per every person 15 and older. The new record
12 was announced by the Agriculture Department,
13 along with these other items. Cigarette output
14 last year was 470 billion." I--

15 Q. That's enough, because it is difficult
16 to read. I got the gist of it. Thank you.

17 And another exhibit.

18 (Exhibit 13 was marked.)

19 MS. COLEY:

20 Q. I show you what has been marked as
21 Deposition Exhibit 13, which is Bates Number 2018
22 of the documents that were produced to me. Do
23 you recognize this?

24 A. Yes.

25 Q. And could you tell me what it is?

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1 A. This is a copy of part of a page from
2 the Jackson Clarion-Ledger from May 23rd, 1962.
3 There is a column and an article on the page.

4 Q. Okay. And the column being the
5 "Mississippi Notebook" by Tom Ethridge?

6 A. Yes.

7 Q. Is that why this was selected?

8 A. Yes.

9 Q. And there are three articles, the
10 first one entitled "More Grief For Steady
11 Smokers," the second one, "Is Lung Cancer Panic
12 Lessening" and the third one, "Efforts to Curb
13 Smoking Fail."

14 A. Right. Mine has the deposition label
15 over part of the third. I don't know if that is
16 significant.

17 Q. No. In the middle article, could you
18 read the first three paragraphs.

19 A. "In spite of the organized campaign to
20 'educate' and discourage steady smokers, there
21 is evidence that the nationwide panic about
22 cigarettes causing lung cancer may be dying
23 down. For one thing, the filter-tip fag seems to
24 be losing some of its popularity. Non-filter
25 brands are enjoying greater sales." The next

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1 one, too?

2 Q. Yes, please.

3 A. "The U.S. Department of Agriculture
4 estimates that cigarette output in this country
5 will set a new production record in 1962. In
6 other words, Americans are smoking more coffin
7 tacks than ever before."

8 Q. For the record, did cigarettes used to
9 be called fags?

10 A. Oh, yes. I think they still are in
11 England.

12 Q. Those are the articles I pulled from
13 the ones that were sent to me that have to do
14 with the 1950s cancer scare. From those
15 articles, does it appear that the message was not
16 received by smokers, at least--

17 A. Are you asking what--

18 Q. I didn't finished my sentence. That
19 the message about smoking being linked with lung
20 cancer was not heated?

21 A. Some of those articles express that
22 opinion, and others express agriculture industry
23 statistics from the tobacco industry. But taken
24 collectively, I would not characterize those as
25 indicating that the message was not heated.

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1 Q. So the message that smoking has been
2 linked to causing lung cancer was heated even
3 though cigarette consumption increased?

4 A. Let me back up just a second. When I
5 say it was not heated, I want to say that it
6 was-- I can't suggest from that that the message
7 was not understood. Individual smokers made
8 choices as to whether or not to smoke, having
9 received the messages about the health
10 consequences of smoking.

11 Q. I see. So just because a person
12 didn't quit smoking doesn't mean they didn't
13 receive the message?

14 A. That's correct.

15 Q. So it doesn't matter if a person takes
16 action on a message in determining whether or not
17 it is received?

18 A. A message can be received and
19 understood and not cause the person to take
20 specific action on it.

21 Q. Okay. You are aware of the 1971 ad
22 ban on tobacco advertising on television?

23 A. Yes.

24 Q. Are you also aware that after that was
25 instituted, that cigarette smoking increased?

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1 A. Yes.

2 Q. What is your explanation for that, if
3 any?

4 A. The increase in smoking that occurred
5 after the ad ban was really a continuation of a
6 trend that could be traced back to the post-war
7 era. Cigarette consumption increased for a
8 period of time in the post-war era, and that
9 continued on past that point.

10 Q. So you don't think it had anything to
11 do with the counter-advertising not being on
12 television either?

13 A. No.

14 Q. We don't need to mark this as an
15 exhibit, but I'm going to show you it. It is
16 Bates Number 4756 through 4763, and it is called
17 "The Mississippi Almanac: The Ultimate
18 Reference On The State Of Mississippi."

19 A. Yes.

20 Q. Do you recognize that?

21 A. Yes.

22 Q. And that was produced to me with all
23 of the other documents. What is the purpose in
24 producing that document to me, and how does it
25 relate to your testimony in this case?

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1 A. . . It is background information on the
2 economy of Mississippi and certain health
3 statistics. It was a single source for a lot of
4 statistical information on the state.

5 Q. . . Okay. And the next one I have is
6 Bates Number 4764, 4765, called "The Mississippi
7 Statistical Abstract," dated 1995. I have the
8 same question about that. Why was that selected?

9 A. . . I would give the same answer. This is
10 background information.

11 Q. . . Okay. You also produced to me the
12 Mississippi Gaming Commission regulations, what
13 appears to be the entire set. Why was that
14 selected?

15 A. . . I acquired the gaming regulations in
16 order to examine whatever regulations pertained
17 to advertising of gaming establishments.

18 Q. . . Okay. The other document is called
19 "The Mississippi Report."

20 A. . . Yes.

21 Q. . . I was looking for it. What exactly is
22 "The Mississippi Report"? Can you tell me
23 without looking at it, because I can't find it
24 right now?

25 A. . . Yes. It is a report on the health

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1 education curricula at elementary, junior high
2 and high school levels in Mississippi. It is a
3 historical overview of what the mandated health
4 education curriculum requirements were, going
5 back to the early 1900s. And there is also
6 excerpts that relate to particularly cancer and
7 smoking or tobacco generally from the authorized
8 textbooks that were used in those health
9 education curricula over that period of time.

10 Q. And that is used in your testimony
11 because you consider the textbooks to be another
12 source of information about which people receive
13 communications about smoking and health?

14 A. Yes.

15 Q. The other set of documents that you
16 have produced were excerpts from textbooks, from
17 elementary school, junior high and high school.

18 A. That's all part of "The Mississippi
19 Report," yes.

20 Q. Have you looked at the entire textbook
21 or have you just looked at the selected pages?

22 A. I have looked at those excerpts.

23 Q. How are those excerpts selected?

24 A. Those excerpts were selected by Dr.
25 Richard Means, who is emeritus professor of

1 health education residing in Auburn, Alabama.
2 Dr. Means is-- you know, has done significant
3 historical study of health education in schools
4 in the United States and has been interested in
5 that issue of tobacco and other health-related
6 concerns. So I'm relying on his expertise in
7 putting that together.

8 Q. Some of the articles seem to be cut
9 off. It looked like somebody just looked at the
10 index and pulled the pages that either had the
11 words "tobacco" or "cigarette."

12 A. In most cases, the pages, the
13 appropriate pages from the index are there, as
14 well. So you kind of have a source of
15 comparison.

16 Q. In reviewing "The Mississippi Report"
17 and the selected textbook pages, do you have an
18 opinion about the effectiveness of the message in
19 those textbooks?

20 A. Not about the effectiveness.

21 Q. What is your opinion about what is in
22 those textbook excerpts?

23 A. I could offer an opinion as to the
24 consistency of the message. I could offer an
25 opinion and really some factual evidence in terms

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1 of the presentation of that issue and what
2 particular health issues were raised with respect
3 to tobacco over the period of time covered.

4 Q. Do you have an opinion as to whether
5 the information in those textbooks-- Never mind.
6 You just said you didn't have an opinion about
7 the effectiveness. Do you consider a textbook to
8 be an effective source of communication for a
9 student?

10 A. Yes.

11 Q. Do you consider it to be a powerful
12 source of information?

13 A. I'd have a hard time offering an
14 opinion as to power. A textbook is typically
15 used to provide both a primary source of
16 information in a particular subject area and to
17 also reinforce what the teacher is doing. They
18 reinforce each other.

19 Q. Which do you think would have a
20 greater influence on a high school student, a
21 movie actor sending a message or a textbook?

22 A. You are really talking about apples
23 and oranges there. Are we talking about sending
24 the same message?

25 Q. Yes.

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1 A. Well, they would vary considerably in
2 the ability to attract and hold a kid's
3 attention. In terms of effectiveness, it would
4 be hard to say. An un-critical person might
5 attach a great deal of credibility to the
6 personality, whereas, another person would
7 realize that, you know, the textbook is based on
8 some type of authority and, you know, research --
9 and that sort of thing, and not be able to make
10 that same judgment about the celebrity figure.

11 Q. You gave me some copies of different
12 Gallup polls. You mentioned earlier that you
13 used that as a source of information in forming
14 your opinion about whether or not the message was
15 received. Do you consider the Gallup poll survey
16 to be a reliable source of information in forming
17 your opinion?

18 A. Yes.

19 Q. Is it something that people regularly
20 rely on in your profession?

21 A. I consider the Gallup poll to be
22 reliable. I see it cited in a variety of
23 different types of ways, in scholarly literature,
24 in textbooks and that sort of thing.

25 Q. One of the other things that was

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1 produced to me was a set of advertisements which
2 appear to be copied from magazines; and there are
3 advertisements that advertise a product, and then
4 there appears to be a copy of the same ad with
5 all of the logo, product recognition material
6 removed; is that correct?

7 A. Yes.

8 Q. I have segregated these into western
9 ads with logos, which include things like
10 Marlboro, Rocky Mountain Clothing, Ralph Lauren,
11 but they are all cowboys and horses and things
12 like that. Then the same set of ads I call
13 western ads without logo. Why was this done?

14 A. In a general sense, to indicate that
15 the visual themes used in cigarette ads are not
16 unique to cigarette ads. That the same types of
17 figures are used, images are used in advertising
18 for a variety of different types of products.

19 Q. Some of these pages show where the
20 advertisement came from, and some of them
21 didn't. Like this Marlboro ad, which is Bates
22 Number 642, came from the outside back cover of
23 Entertainment Weekly. Then Bates Number 643,
24 which is an ad for Rocky Mountain Clothing, came
25 from Page 83 of Western Styles magazine. In

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1 advertising, and I know you are not an expert in
2 advertising, but tell me if you can offer an
3 opinion on this. Is it not important the reader
4 audience of a magazine in which the ad is placed?

5 MR. HELMS:

6 Let me object to the preface of your
7 question, because I don't think he said that. I
8 think he said he has expertise in advertising,
9 and I think you are referring to what he said
10 about marketing.

11 A. Would you restate the question,
12 please.

13 MS. COLEY:

14 Q. Yes. Isn't it important in placing an
15 ad in a magazine to know the demographics of the
16 readership of the magazine?

17 A. From the standpoint of the advertiser?

18 Q. Yes.

19 A. Yes.

20 Q. So those two examples I just gave you,
21 Entertainment Weekly would probably have
22 different demographics than Western Styles?

23 A. I'm not familiar with the demographics
24 of either.

25 Q. In communicating a message, it is

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1 important to look at the entire message, right?

2 A. Yes.

3 Q. So like, for example, the casino ad we
4 looked at before, you mentioned all of the words
5 in there. You didn't talk about the little
6 parrot, which is the Isle of Capri symbol; but
7 that would be important to the Isle of Capri to
8 put that in there?

9 A. To the extent that they want to
10 establish that trade figure and the recognition
11 of that trade figure, yes.

12 Q. In selling Marlboro cigarettes, it
13 would be important to Philip Morris to put the
14 name "Marlboro" on their advertising, wouldn't
15 it?

16 A. I believe that's the way it is usually
17 done, yes.

18 Q. The next set of ads appear to be--
19 there are lots of copies of men and woman
20 together and pretty women, and some of them are
21 selling cigarettes and some of them are selling
22 pantyhose and things like that. Then I have the
23 same set without any logo on it. Are you going
24 to basically say the same thing about this as you
25 do about the western ads?

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1 A. Which is?

2 Q. The theme is not unique to cigarette
3 advertising.

4 A. Yes.

5 Q. Using a pretty girl in a cigarette ad
6 is not unique to cigarette advertising?

7 A. That's correct.

8 Q. I'm going to show you-- and we don't
9 have to mark these as exhibits-- Bates Number 689
10 and 690. Do you recognize those two?

11 A. They are basically-- Yes. They are
12 poor copies, but--

13 Q. And they are advertisements?

14 A. Yes.

15 Q. And Number 689 is an advertisement for
16 what product?

17 A. Marlboro medium cigarette.

18 Q. And I know it is a bad copy, but can
19 you kind of describe what is in the
20 advertisement?

21 A. I think-- Well, there is the cigarette
22 pack, and I believe that a person is striking a
23 match on the sole of a boot, the cowboy boot.

24 Q. And in Document 690-- Is that right?

25 A. Yes.

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1 Q. What is that an ad for?

2 A. Ralph Lauren, something called the
3 "Polo Rider."

4 Q. And the picture is?

5 A. The predominant visual element in the
6 picture is a boot, the best I can make it out.

7 Q. Okay. And--

8 A. And, you know, a similarity to the
9 predominant boot in the other ad.

10 Q. And 689 is trying to sell cigarettes,
11 and 690 is probably trying to sell Ralph Lauren
12 boots?

13 A. I assume it is boots, yes.

14 Q. Okay. Do you have an opinion about
15 what kind of image is projected in either one of
16 those ads?

17 A. What kind of image? In the case of
18 Marlboro, it is clearly a cowboy boot, as is
19 evidenced by the spur. You know, it looks like
20 kind of a worn work shirt on a person's arm
21 scratching a wooden, you know, type match, which
22 I think has more of a rustic kind of element to
23 it. And so it is consistent with the cowboy
24 figure theme that has been part of, you know,
25 Marlboro's primary approach for many, many years.

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1 Q. And what about the Ralph Lauren ad?

2 A. Again, I'm not 100 percent certain.
3 I'm assuming it is for a boot. Again, just
4 making somewhat of a speculation here on my part,
5 something that we used to call, perhaps, a
6 motorcycle boot kind of thing. And if that is
7 what it is, it is something that would be
8 associated with, I guess, masculinity, that sort
9 of thing. So there is rough comparability in
10 that sense.

11 Q. Do you know which magazines those two
12 ads came out of?

13 A. No, I do not.

14 Q. Would that be important at all in--
15 Let me back up. Are you going to offer any
16 opinions about, for example, who these ads might
17 be targeted to?

18 A. That is not the basic reason for those
19 collections, so I'm-- You know, I don't know. It
20 depends on what I'm asked, basically.

21 Q. Okay. Can you give an opinion on who
22 Marlboro is trying to get to buy their
23 cigarettes?

24 A. Given the fact I don't know
25 specifically what publication that appeared in, I

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1 couldn't really speculate as to who and how that
2 was targeted.

3 Q. So if this appeared in Ladies Home
4 Journal, you would think it targeted one
5 audience, as opposed to if it appeared in Rolling
6 Stone, for example?

7 A. I would assume, you know, some
8 conscious decisions have been made about ad
9 placement relative to the audiences.

10 Q. And the same thing about the Ralph
11 Lauren ad. If it were in Vogue magazine or if it
12 were in G.O. that would be important in
13 determining what target audience Ralph Lauren was
14 seeking?

15 A. Yes. That's how ads are placed, yes.

16 Q. Dr. Goff, you also produced a group of
17 journal articles. In what way are you using
18 these to rely on in forming your opinion?

19 A. Most of those articles I read some
20 time ago to give myself the background, some
21 degree of background in depth, on how issues
22 related to tobacco and cigarettes have been
23 investigated in scholarly literature, in
24 marketing, advertising, consumer behavior and
25 communication.

1 Q. . . Do you have an opinion about what is
2 the best way to study the effectiveness of
3 advertising?

4 A. I think the best way to study the
5 effectiveness of advertising is to use social
6 scientific methods.

7 Q. Which would be, for example?

8 A. A variety of different techniques. I
9 think among the more powerful would be research
10 techniques involving experimental methodology.

11 Q. Do you think purchasing a product is a
12 way to determine if an advertisement was
13 effective?

14 A. I think it is widely perceived among
15 the public that way, but that would be a very
16 risky way to make an interpretation of
17 advertising effectiveness.

18 Q. Are you aware that Marlboro is the
19 most smoked brand among teenagers?

20 A. It is the number one brand, period.

21 Q. Are you aware that Marlboro, Camel and
22 Newport cigarettes are the top three brands among
23 teenagers?

24 A. I have heard that, yes.

25 Q. Are you aware that Marlboro, Camel and

1 Newport are also the most heavily advertised
2 brands of cigarettes?

3 A. Yes.

4 Q. Do you see any connection between
5 those two statements?

6 A. I think there is generally a
7 connection between successful advertising
8 activities and market share, brand share.

9 Q. Have you made yourself familiar with
10 the lawsuit in general?

11 A. Yes. I have read the complaint.

12 Q. Do you understand that this state is
13 seeking to recoup medical costs regardless of
14 what the citizens of Mississippi knew? And I
15 know that is a legal question, but I'm just
16 asking if you--

17 A. Yes. I guess I'm aware of that. I'm
18 not-- Again, that is a legal issue.

19 MS. COLEY:

20 Can we take just a minute?

21 (A recess was taken.)

22 MS. COLEY:

23 Q. Dr. Goff, can you explain to me what
24 cultivation analysis is?

25 A. Cultivation analysis is an approach to

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1 media effects, research that essentially looks at
2 how people's views and perceptions are influenced
3 or cultivated over a period of time. Usually,
4 most of the cultivation research is focused on
5 the role played by the medium of television.

6 Q. And that would be because people
7 today, and for the last 40 years, are born with
8 television? It is always in their life?

9 A. That, I think, was part of the impetus
10 behind cultivation research. It really began at
11 the University of Pennsylvania under the
12 direction of Dr. George Gergner. And cultivation
13 theory as it has developed, that has always been
14 kind of the central site of cultivation theory
15 work as it has developed over time. As I said,
16 most of the time, cultivation theory is referring
17 to the role of television in our lives.

18 Q. Could cultivation theory be used to
19 look at tobacco advertising?

20 A. Again, cultivation theory is largely
21 used in the context of television. Of course,
22 television advertising of tobacco is gone. It
23 has been for a long time now. I'm not that
24 familiar with cultivation studies that look at
25 print, but I think it is theoretically possible,

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1 yes, to apply cultivation to design a study from
2 a cultivation prospective.

3 Q. In the media effects book that was
4 produced to me in this-- I'm going to make a
5 statement, and just tell me if I'm right or
6 wrong.

7 A. Okay.

8 Q. Cultivation analysis focuses on the
9 consequence of exposure to a recurrent pattern of
10 stories, images and messages.

11 A. That sounds reasonable.

12 Q. Do you think that tobacco advertising
13 is highly prevalent in society?

14 A. You remember I said that cultivation
15 analysis typically deals with television. It
16 looks at television in the broadest sense. In
17 other words, all of the content of television.

18 In the case of cigarette advertising
19 where it appears in magazines, I guess to some
20 extent newspapers, billboards, that sort of
21 thing, it is nowhere near as ubiquitous as
22 television content and its message system is.
23 Similarly being a form of advertising, an awful
24 lot of advertising is simply not noticed. You
25 know, we don't pay attention to ads for things

1 that we are not interested in. So a considerable
2 amount of advertising is simply not noticed. So
3 I don't-- You know, in answer to your question, I
4 don't see that as being that-- anything
5 comparable to the message system of, say,
6 television programming.

7 Q. Do you think that tobacco advertising,
8 information and marketing, and I include all
9 types of advertising, promotional items and point
10 of purchase, do you think that sends a message
11 that cigarette smoking is a normal behavior?

12 MR. HELMS:

13 Object to the word "normal" as vague.

14 You can answer, if you understand the
15 question.

16 THE WITNESS:

17 I'm sorry. I thought when you
18 objected, there had to be some response from the
19 other side of the table.

20 MR. HELMS:

21 No, no, no.

22 MS. COLEY:

23 Q. I was trying to find another word, but
24 I can't. Just answer as best you can.

25 A. Would you repeat the question?.

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1 Q. - I understand that you don't feel that
2 the tobacco advertising and everything associated
3 with it is not as ubiquitous as television in
4 general. But would the presence and the
5 prevalence of tobacco advertising present that
6 smoking is a normal behavior done by a majority
7 of the population?

8 A. Okay. In other words, is it a
9 widespread behavior?

10 Q. Yes.

11 A. I don't believe that television
12 marketing or-- excuse me-- cigarette marketing
13 and promotion necessarily creates that
14 impression.

15 Q. Okay. Are you familiar with the
16 uptake of smoking? Are you aware there is a
17 continuum for uptake of smoking?

18 A. I have seen some of that material,
19 yes.

20 Q. Do you think that cigarette
21 advertising plays any role at any period on that
22 uptake continuum?

23 A. You mean on smoking initiation?

24 Q. Yes.

25 A. I believe that cigarette advertising

1 basically is designed to attract smokers to try a
2 specific product, to try a specific brand. I
3 think among all of the influences on smoking
4 initiation, that advertising is-- if it counts at
5 all, it is a very, very weak influence.

6 Q. Do you know the percentage of smokers
7 who have switched brands over their smoking
8 lifetime?

9 A. I have seen some statistics on that,
10 but I don't have them available at the top of my
11 head.

12 Q. Does 10 percent sound familiar?

13 A. Again, unless I know the exact
14 percentage, I don't want to speculate.

15 Q. Are you aware of the amount of money
16 that the industry spends as a whole on
17 advertising, say, for 1995 or 1996?

18 A. I have the figures accessible to me.
19 I don't have them at the top of my head right
20 now. In other words, I could look it up.

21 Q. Assuming that of smokers only 10
22 percent switch brands in their lifetime, and
23 assuming that the industry spent \$6 billion a
24 year on advertising and promotion, does that
25 sound reasonable to you that that amount of money

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1 would be spent on such a small number of people?

2 MR. HELMS:

3 Objection to the words "switch
4 brands." It is vague.

5 Go ahead and answer, if you can.

6 A. If the industry as a whole spends
7 somewhere in the neighborhood of \$6 billion, that
8 is your figure, for advertising, and you added
9 promotion, as well, to that, that is not, you
10 know-- That is an industry-wide figure. If you
11 look at what an individual firm spends on
12 advertising and promotion to influence brand
13 switching, and in a competitive market like
14 cigarettes, picking up a few percentage points of
15 market share over a period of time represents a
16 very substantial amount of money in terms of
17 revenue for the company. So, yes, it is
18 something that they do routinely.

19 MS. COLEY:

20 Q. So your answer would be yes, that
21 would be reasonable, given everything you just
22 said?

23 A. If you could go back and tell me again
24 my answer to-- I think I was answering the
25 question as asked, but if you would restate.

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1 MR. HELMS:

2 He needs to know the original
3 question.

4 THE WITNESS:

5 The original question, yes.

6 MS. COLEY:

7 Q. Is it reasonable for an industry to
8 spend \$6 billion on 10 percent of smokers to
9 switch brands?

10 A. Again, my answer is characterized from
11 the standpoint of it is reasonable for an
12 individual company to spend significant amounts
13 of money to attract brand switchers to their
14 brand and to develop and enlarge their market
15 share. In the case of money spent on promotion,
16 for example, you know, you are throwing it all
17 into one pot. And there are different
18 considerations in terms of advertising an
19 existing brand versus launching a new brand and
20 that sort of thing.

21 Q. Okay. You would agree with me that
22 smokers die just like everybody else does?

23 A. Everybody dies.

24 Q. And would it be important to Philip
25 Morris, for example, to replace those smokers

1 that die?

2 MR. HELMS:

3 Object. The word "replace" is vague.

4 A. Again, the industry and brand
5 advertising in competitive industries look at
6 share of the market. And I think that's
7 essentially what they are attempting to
8 influence, is market share. If you want to key
9 on people who leave the marketplace because they
10 die, that happens across the board and affects
11 every industry. And, again, if you look at the
12 population of smokers that are out there, the
13 industry essentially attempts to influence the
14 buying patterns, the purchase behavior of the
15 population of smokers.

16 MS. COLEY:

17 Q. So is it your opinion that tobacco
18 advertising and promotion has little, if
19 anything, to do with smoking initiation?

20 A. That's my opinion, yes, ma'am.

21 Q. So, in your opinion, the tobacco
22 companies are simply taking advantage of all of
23 the other influences on why a person would smoke
24 and waiting for the person to become a smoker and
25 then the advertising comes into effect, and say,

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1 well, you are already a smoker, we want you to
2 smoke our brand?

3 MR. HELMS:

4 Object to the phase "taking advantage
5 of." It is vague and lacking foundation.

6 Go ahead and answer, if you can.

7 A. Would you restate, please.

8 MS. COLEY:

9 Q. Okay. Your opinion is that tobacco
10 advertising information has very little to do
11 with a person becoming a smoker; is that a
12 correct statement?

13 A. Yes.

14 Q. Okay. So the tobacco advertising
15 simply advertises to smokers; that is your
16 opinion?

17 A. Yes.

18 Q. Would you agree that people other than
19 smokers pay attention to tobacco advertising?
20 Let me rephrase that. See tobacco advertising?

21 A. Certainly.

22 Q. Are exposed to it?

23 A. Yes.

24 Q. So the tobacco industry, people who
25 advertise cigarettes, are simply waiting for

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1 people to become smokers in advertising a
2 product?

3 MR. HELMS:

4 Objection to the tobacco industry
5 advertising their product. It is lacking
6 foundation.

7 A. There is a very large still population
8 of smokers out there who are of legal age to buy
9 cigarettes. I believe that it is that population
10 of smokers that is of interest to cigarette
11 companies in their advertising programs.

12 MS. COLEY:

13 Q. You don't think that teenagers are of
14 interest to cigarette companies?

15 A. Explain what you mean by "of
16 interest." You know, somewhere down the road,
17 you know, the smoking initiation, for example,
18 studies look at when people start smoking and so
19 on and the factors that influence that behavior.
20 And, you know, we are aware of that literature.
21 Health practitioners are aware of that
22 literature, and certainly the tobacco industry is
23 aware of that literature, as well.

24 And understanding when and why people
25 become smokers may be of some use to the industry

1 in terms of understanding the change in
2 demography of the population, being able to look
3 down the road and say, well, in thus and such a
4 year, what percentage of the population might be
5 smokers, things like that.

6 Q. Do you have an opinion as to whether
7 advertising can be used to create a need in a
8 consumer?

9 A. No. I don't think that advertising
10 creates a need.

11 Q. Do you think that advertising is there
12 to tell the consumer this product will fulfill a
13 need that you have?

14 A. I think the need-- I think the need
15 exists, you know. If the advertisement is going
16 to have any kind of impact, then the need has to
17 exist first.

18 Q. And the need could be the need to wash
19 your clothes or a self-esteem need?

20 A. Certainly.

21 Q. So it could be something
22 psychological?

23 A. Oh, yes.

24 Q. Could you explain to me what the
25 elaboration of likelihood model of persuasion is?

1 A. . . It would be easier to refer to the
2 model. You know, just in a general sense, the
3 elaboration-- this is the kind of nickel
4 overview-- the elaboration of likelihood model is
5 an effort to explain the type of information
6 processing that a person engages in. And there
7 are generally in that model thought to be
8 essentially two routes, if you will, to
9 persuasion; one in which the information is
10 elaborated or processed actively, and then one
11 that is referred to as a peripheral route, where
12 the information is given less direct attention
13 and probably less direct thought.

14 Q. Does that model relate at all to
15 tobacco advertising, or can it be related in some
16 way?

17 A. I believe I could relate that model to
18 advertising pretty much of anything. But I'd
19 prefer not to do that off the top of my head.

20 Q. Okay. Are you aware of the types of
21 people who use print media?

22 A. Yes.

23 Q. Can you kind of give me an example of
24 their characteristics?

25 A. The simplest differentiation about

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1 print media is that, generally speaking, people
2 who use more print media tend to be better
3 educated than those who don't.

4 Q. Do you have an opinion about the
5 effectiveness of the Surgeon General's warnings
6 that appears on cigarette packages and in certain
7 cigarette advertising?

8 A. I don't believe that they are terribly
9 impactful much beyond the first time you might
10 actually read one.

11 Q. Do you consider the cigarette market
12 to be a mature market?

13 A. I think it fits the parameters of a
14 mature market, yes.

15 Q. And what would be those parameters?

16 A. Competitive marked by a number of
17 brands, in this case, a number of brands that
18 have been in existence for a considerable period
19 of time, one in which a fair amount of brand
20 loyalty exists.

21 Q. Do you have a personal opinion about
22 cigarettes as far as their effects on health?

23 A. Yes.

24 Q. And what would be that opinion?

25 A. I believe that smoking cigarettes

1 constitutes a very distinct health hazard.

2 Q. I just want to make sure that I
3 understand what you are going to offer opinions
4 on that we have gone over this morning. And I
5 know the record speaks for itself. I just want
6 to know if I understand it. You are basically
7 going to offer an opinion that the message that
8 smoking was hazardous to your health was
9 received?

10 A. That it was broadly disseminated. And
11 I have some information in terms of indications
12 that it was received, yes.

13 Q. Okay. And it is also your opinion
14 that tobacco advertising information is just out
15 there to get smokers to smoke a different brand?

16 A. Yes.

17 Q. And you anticipate comparing tobacco
18 advertising to the casino advertising?

19 A. That is possible, yes.

20 Q. And all of these documents that have
21 been produced to me, you are going to use to show
22 the different sources in which the information
23 was sent about smoking and health?

24 A. Would you restate that. I'm not sure.

25 Q. You stated several times that there

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1 are different sources of information about
2 smoking and health, be it the textbooks, the
3 newspaper, the New York Times and the magazines.
4 Do you anticipate using those with your testimony
5 to show different sources where the information
6 was?

7 A. The different sources and the
8 information that they conveyed.

9 Q. And the consistency of that
10 information?

11 A. Yes.

12 MS. COLEY:

13 That's all of the questions I have.

14 MR. HELMS:

15 We'll reserve our questions until time
16 of trial.

17 (Deposition concluded at 12:15
18 p.m.)

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